



Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30, Chapter 70
Regulation title	Methods and Standards for Establishing Payment Rates— Inpatient Hospital Services
Action title	Modification of Indirect Medical Education Payments
Document preparation date	

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulatory package combines two previous emergency regulatory changes mandated through recent Appropriations Acts for the Medicaid Indirect Medical Education (IME) payment methodology. First, DMAS was required to implement a new supplemental IME payment for hospitals with Medicaid NICU utilization greater than 50 percent (2004 Appropriations Act, Item 326 HHH). Secondly, DMAS was required to implement a new supplemental IME payment for hospitals with Medicaid NICU days in excess of 4,500, which did not qualify based on the utilization threshold from the 2004 Act (2005 Appropriations Act, Item 326 ZZZ).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background Document with the attached amended State Plan pages Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services (12 VAC 30-70-291) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act and is full, true, and correctly dated.

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this proposed regulatory action is to implement supplemental payments for qualifying hospitals through Indirect Medical Education (IME) funding based on high Neonatal Intensive Care Unit (NICU) utilization or, alternatively, a high number of NICU days.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The section of the State Plan for Medical Assistance that is affected by this change is the Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services (12 VAC 30-70-291).

Item 326 HHH of the 2004 Appropriations Act calls for an IME payment enhancement to non-state government owned hospitals with Medicaid NICU utilization greater than 50 percent (as reported to DMAS by March 1, 2004). Based on data available as of March 1, 2004, there are two private hospitals for which the Medicaid NICU utilization meets this standard. The regulatory change provides additional language to codify the IME enhancement as directed by the Appropriations Act. The total amount of funds to be dispersed among eligible hospitals has been set at \$1.5 million annually. This mandate was effective with State Fiscal Year 2005.

Item 326 ZZZ of the 2005 Appropriations Act calls for an IME payment enhancement to private (Type Two) hospitals with Medicaid NICU days in excess of 4,500 (as reported to DMAS by March 1, 2005) that would not receive enhanced payment under the criterion in Item 326 HHH of the Appropriations Act (described above). Based on data available as of March 1, 2005, there is only one private hospital for which the Medicaid NICU days meet this standard. The regulatory change provides additional language to codify the IME enhancement as directed by the Appropriations Act. The total amount of funds to be dispersed among eligible hospitals has been set at \$0.5 million annually. This mandate was effective with State Fiscal Year 2006.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the Commonwealth is that increases in reimbursement generally may sustain or enhance access to medical services. The primary disadvantage to the Commonwealth is an increased expenditure of funds for medical services without any directly related and measurable increase in access to care.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no substantive changes between the emergency regulation, the proposed regulation and the final regulation.

Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

DMAS' proposed regulations were published in the April 3, 2006, *Virginia Register* for their public comment period from April 3, 2006 through June 6, 2006. The Agency received no public comments.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

There were no substantive changes between the emergency regulation, the proposed regulation and the final regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12 VAC 30-70-291	12 VAC 30-70-291 (D)	Sets forth formula for calculating the standard IME payments	Adds a new paragraph which provides for an additional IME payment for hospitals with 50 percent or greater Medicaid NICU utilization to provide additional mandated funding
12 VAC 30-70-291	12 VAC 30-70-291 (E)	Sets forth formula for calculating the IME payments	Adds new paragraph describing the adjustment in IME methodology for hospitals with greater than 4,500 Medicaid NICU days to provide additional mandated funding.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment and is not expected to affect disposable family income.